

# HOUSE BILL REPORT

## HB 1418

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### As Reported by House Committee On: Government Operations & Elections

**Title:** An act relating to hours of availability for inspection and copying of public records.

**Brief Description:** Regarding hours of availability of cities, towns, and special purpose districts for inspection and copying of public records.

**Sponsors:** Representatives Hunt, Buys, Manweller and Warnick.

#### **Brief History:**

##### **Committee Activity:**

Government Operations & Elections: 2/12/13, 2/19/13 [DPS].

#### **Brief Summary of Substitute Bill**

- Requires cities, towns, and special purpose districts that do not maintain office hours for a minimum of 30 hours per week to post directions on how to contact agency personnel to make a public records request.
- Establishes the date of receipt of a public records request as the date of an agency's next regularly scheduled meeting, where the agency does not maintain office hours for a minimum of 30 hours per week.
- Requires an agency to respond to a request in the next regularly scheduled meeting after agency personnel have been contacted.

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### HOUSE COMMITTEE ON GOVERNMENT OPERATIONS & ELECTIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Hunt, Chair; Bergquist, Vice Chair; Buys, Ranking Minority Member; Taylor, Assistant Ranking Minority Member; Alexander, Carlyle, Fitzgibbon, Kristiansen, Manweller, Orwall and Van De Wege.

**Staff:** Jasmine Vasavada (786-7301).

#### **Background:**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

### Public Records Act.

The Public Records Act (PRA) requires that all state and local government agencies make available for public inspection and copying all public records, unless the requested records fall within certain statutory exemptions. The disclosure requirements in the PRA must be interpreted liberally and the exemptions narrowly, in order to effectuate a general policy favoring disclosure.

The PRA requires agencies to make public records available for inspection and copying for a minimum of 30 hours per week, during the customary office hours of the agency. Cities, towns, and special purpose districts are also subject to PRA disclosure requirements. However, some cities, towns, and special purpose districts do not have customary office hours of 30 hours or more per week.

The PRA requires agencies to respond to public records requests within five business days. The agency must either provide the records, provide a reasonable estimate of the time the agency will take to respond to this request, or deny the request. Failure to timely respond, or denial of the request where no exemption is applicable, may subject the agency to penalties. For practical purposes, the law treats a failure to properly respond as denial. A denial of a public records request must be accompanied by a written statement of the specific reasons for denial.

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### **Summary of Substitute Bill:**

Cities, towns, and special purpose districts that do not maintain office hours for a minimum of 30 hours per week must post, at the physical agency headquarters and on the website, if the agency maintains one, directions on how to contact the agency personnel to request to inspect or copy records.

Where a city, town, or special purpose district does not maintain customary business hours of 30 or more per week, the agency must still respond to a public records request within the timeline established by the PRA. However, in such circumstances, the date of the agency's next regularly scheduled meeting after agency personnel has been contacted is deemed the date of receipt of the request. The agency must respond promptly to the request in the business conducted at its next regularly scheduled meeting, after agency personnel has been contacted. An agency personnel is "contacted" for the purposes of the response timeline when personnel actually knows that a request to inspect or copy a record is being made. An agency is also "contacted" for purposes of the response timeline when there is proof of attempted delivery of a properly addressed certified letter, return receipt requested, regardless of whether the agency accepts the letter or not.

### **Substitute Bill Compared to Original Bill:**

The substitute bill requires an agency that maintains a website to post, on both the website and at the agency headquarters, directions on how to contact personnel with a public records request. The original bill only required directions to be posted either on the website or at the agency headquarters.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The requirement that public records be made available for 30 hours per week is unrealistic in certain small special purpose districts. In some irrigation districts, staff may be limited to a part-time bookkeeper and a couple of seasonal workers, and during the irrigation season the managers are out in the ditches. A records requestor, finding no one in the office, might raise concerns about noncompliance with the PRA. Even some small cities have city clerk offices that are not open for 30 hours per week. These jurisdictions would like to ensure that they are in compliance with the PRA, and this bill will allow that. From the perspective of a small community newspaper or journalist, this bill does an excellent job of balancing two important interests, recognizing that every agency has responsibility under the PRA, but many smaller districts do not have staff or full-time hours and need special consideration. Where an agency does have a website, it would be good policy to require the agency to post hours and contact information both at the agency headquarters and online.

(Opposed) None.

**Persons Testifying:** Representative Hunt, prime sponsor; Mike Schwisow, Washington State Water Resources Association; and Bill Will, Washington Newspaper Publishers Association.

**Persons Signed In To Testify But Not Testifying:** None.